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ATTORNEYS FOR BURLESON ISD, ET AL.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE:		Chapter 11
	§	
BLOCKBUSTER, INC. ET AL.		Case No. 10-14997-BRL
	§	
	§	
Debtors.		Jointly Administered

**LIMITED OBJECTION TO INTERIM ORDER AND ENTRY OF FINAL ORDER (I)**  
**AUTHORIZING POSTPETITION SUPERPRIORITY SECURED FINANCING PURSUANT TO 11**  
**U.S.C. SECTIONS 105(a), 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), AND 364(e), (II)**  
**AUTHORIZING POSTPETITION USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C.**  
**SECTION 363, (III) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. SECTIONS**  
**361, 362, 363 AND 364 AND (IV) SCHEDULING A FINAL HEARING PURSUANT TO**  
**BANKRUPTCY RULES 4001(b) and 4001(c)**

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

NOW COME Burleson ISD, Carroll ISD, City of Azle, City of Benbrook, City of Burleson, City of Cleburne, City of Colleyville, City of Grapevine, City of Hurst, City of Lake Worth, City of Mineral Wells, City of University Park, City of Watauga, Cleburne ISD, Crowley ISD, Eagle Mountain-Saginaw ISD, Fort Worth ISD, Grapevine-Colleyville ISD, Highland Park ISD, Johnson County, Mansfield ISD, Mineral Wells ISD, Palo Pinto County, Richardson ISD, Town of Pantego, Spring Branch ISD, Cinco

MUD 3, Willow Fork DD, City of Bellaire, HC MUD 53, Channelview ISD, City of Cleveland, Humble ISD, Faulkey-Gully MUD, MC MUD 47, Tomball ISD, City of Tomball, Klein ISD, Spring ISD, HC MUD 321, HC WCID 145, Walker County, Cypress Forest PUD, Trail Lakes MUD, HC MUD 153, Fort Bend ISD, Fort Bend MUD 119, Fort Bend LID 2, Fort Bend LID 10, Alief ISD, Mission Bend MUD 2, Willow Fork DD, HC MUD 70, Clear Creek ISD, Dickinson ISD, Emerald Forest UD, Clear Lake City WA, Brazoria County, Hidalgo County, Hidalgo County Drainage District # 1, Kendall County, Kerr County, McAllen ISD, Midland County, Cooke County, Greenville ISD, and City of Greenville ("Burleson ISD, et al.") and file this their LIMITED OBJECTION TO INTERIM ORDER AND ENTRY OF FINAL ORDER (I) AUTHORIZING POSTPETITION SUPERPRIORITY SECURED FINANCING PURSUANT TO 11 U.S.C. SECTIONS 105(a), 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), AND 364(e), (II) AUTHORIZING POSTPETITION USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. SECTION 363, (III) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. SECTIONS 361, 362, 363 AND 364 AND (IV) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(b) and 4001(c) (the "Motion") and state as follows:

1. Burleson ISD, et al. are political subdivisions of the State of Texas and, as such, are required by the constitution of the State of Texas to levy and assess ad valorem taxes on all real and business personal property located within their respective taxing jurisdictions as of January 1 of each tax year. Pursuant to Texas law, a lien automatically attached to Debtors' business personal property located within Burleson ISD, et. al.'s taxing jurisdictions on January 1, 2010 to secure payment of the 2010 pre-petition taxes, penalties, and interest ultimately imposed on the Debtors' property. *In re Winn's Stores, Inc.*, 177 B.R. 253 (Bankr. W.D. Tex. 1995); *Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App.-Eastland 1995). Texas Tax Code Section 32.01 provides in relevant part:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property . . .

Section 32.01(d) of the Texas Property Tax Code, further, states that the tax liens were perfected on attachment and required no further action on the part of the taxing authorities. Furthermore, secured tax liens for the 2011 property taxes will also attach to the Debtors' business personal property on January 1, 2011 to secure payment of the 2011 taxes which will be incurred post-petition.

2. Burleson ISD, et al. hold claims for approximately \$222,000 for the outstanding 2010 ad valorem taxes against business personal property of the Debtors. These claims are secured by prior perfected continuing enforceable tax liens upon the property of the Debtor, as provided by Sections 32.01 and 32.05(b) of the Texas Property Tax Code.

3. Burleson ISD, et al. file this limited objection to the Motion and entry of a final order granting the Motion to the extent that any liens of DIP lenders or other junior secured lien-holders attempt to prime Burleson ISD, et al.'s pre and post-petition ad valorem tax liens. Burleson ISD, et al. assert their secured lien position would be compromised if their secured tax liens are not adequately protected. With certain limited exceptions, which are not applicable in this case, Section 32.05(c) of the Texas Property Tax Code states that secured tax liens for ad valorem taxes have prior liens in the property. As such, Burleson ISD, et al. assert their secured liens, as prime liens, must be adequately protected and any order granting the Motion should reflect that Burleson ISD, et al.'s secured tax liens continue to attach to the collateral to secure the payment of said liens until all taxes, penalties, and interest that may ultimately accrue for the pre-petition (2010) and post-petition (2011) taxes are paid in full pursuant to state law.

4. Burleson ISD, et al. further assert that any proceeds from any sale of business personal property that is encumbered by Burleson ISD, et al.'s ad valorem tax liens should be used to satisfy Burleson ISD, et al.'s secured tax liens prior to any DIP lenders or other junior secured lien-holders. In order to adequately protect their secured tax liens, Burleson ISD, et al. request that either their liens be paid at the time of any sale (store closing) that pertains to any of the business personal property encumbered by their secured tax liens, or, in the alternative, a separate escrow or segregated account be created at closing from the proceeds of any such related sale in a sufficient amount to cover all ad valorem property taxes owed to Burleson ISD, et al., with their secured tax liens attaching to these segregated proceeds with the same validity, priority, and effect as they exist under non-bankruptcy law.

WHEREFORE, PREMISES CONSIDERED, Burleson ISD, et al. request this Honorable Court to order that their secured ad valorem tax liens for pre-petition (2010) and post-petition (2011) taxes are not primed by the DIP lenders or other junior secured lien-holders, that their ad valorem taxes are to be paid at the time of store closing of any business personal property encumbered by their secured ad valorem tax liens or, in the alternative, that a separate escrow or segregated account be created from any sales proceeds related to such encumbered property for the ad valorem taxes as adequate protection for the tax liens, and for all further relief as is just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the above document was sent via facsimile and/or the Court's electronic case filing system to the following parties on this 12<sup>th</sup> day of October, 2010:

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